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To: Examiner Swarthout From: David C. Goldman

Group Art Unit 2636 Docket No. 124463-2

Fax: 703-872-9306 Pages including this sheet: 4

Phone: 703-305-4383 Date: July 13, 2004

Re: US Patent Application Serial Number 10/063,950

• Comments:

Examiner Swarthout,

Enclosed is a response to the final office action dated May 6, 2004 for US Patent Application Serial Number 10/063,950. This is a formal communication intended for entry.

If you have any questions please contact me.

Thank you.

David Goldman

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Serial No. 10/063,950

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July 13, 2004
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David Mathews
 Signature _____
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OFFICIAL**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Inventor: Mathews, Jr. et al.

Serial No.: 10/063,950

Group Art Unit: 2636

Filed: May 29, 2002

Examiner: Swarthout

Title: Method And Apparatus For Detecting
Hot Rail Car Surfaces

Response to Paper No.: 4

REQUEST FOR RECONSIDERATION

Mail Stop AF
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 2213-1450

Sir:

In response to the Final Office Action mailed on May 6, 2004, Applicant requests that the Examiner further examine and reconsider the present patent application in light of the following remarks.

In the Final Office Action, the Examiner notes that Doctor does not specifically disclose using a rank filter, but submits that it would have been an obvious manner of engineering choice to use the rank filter in place of the IR filter. The Examiner believes that it would have been an obvious manner of engineering choice because both the IR filter of Doctor and the rank filter of the present patent application provide the functionally equivalent result of generating an array of sensed values.

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Applicant does not believe that the IR filter of Doctor and the rank filter of the present patent application provide the functionally equivalent result of generating an array of sensed values. The function of the IR filter as shown in Fig. 2 and discussed in column 3, lines 17-18 of Doctor is to receive an image of the wheel and let only infrared light pass to 8 temperature detectors. Passing infrared light is not functionally equivalent to generating an array of sensed values. The IR temperature detectors in Doctor appear to generate the array of sensed values and not the IR filter. If Doctor was interested in having the IR filter generate an array of sensed values, then Applicant submits that the IR filter would have been placed after the IR temperature detectors. Since the IR filter is performing a different function and generating a different result (i.e., passing IR light) than the rank filter which is performing an image processing operation, Applicant submits that it would not have been an obvious engineering choice to use the rank filter in place of the IR filter.

Also, as noted in Paper Number 3, Applicant submits that Doctor does not teach or provide a motivation suggesting the desirability of using a first peak detector to detect a maximum filtered value of the filtered array. The amplification, signal processing and analysis operations are not analogous to a first peak detector that detects a maximum filtered value from a filtered array. Furthermore, Applicant does not believe that reference element 100 in Fig. 3 of Doctor is analogous to a maximum filtered value. Instead, reference element 100 is a part of individual waveforms that make up the temperature profile of the wheel. In particular, reference element 100 is representative of the temperature of the wheel hub and is not analogous to a maximum filtered value from a filtered array.

In light of the above-noted distinctions, Applicant submits that claims 1 and 10 are patentably distinguishable over Doctor. Accordingly, Applicant requests that the Examiner reconsider and remove the §103(a) rejection of claims 1 and 10.

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In view of the foregoing, Applicant requests that the Examiner reconsider this application and allow claims 1-18.

If the Examiner has any questions regarding the present patent application, the Examiner can call Applicant's attorney, David Goldman, at telephone number (518)-387-5927 or (518)-387-5903.

Respectfully submitted,



David C. Goldman
Attorney for Applicant
Registration No. 34,336

Schenectady, New York
Dated: July 13, 2004

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